

Office of the Secretary, Education

§ 76.770

that assists the State in complying with the requirements under 34 CFR 76.720 and in carrying out other responsibilities under the program.

(Authority: 20 U.S.C. 1221e-3, 1231a, and 3474)
[72 FR 3703, Jan. 25, 2007]

RECORDS

§ 76.730 Records related to grant funds.

A State and a subgrantee shall keep records that fully show:

- (a) The amount of funds under the grant or subgrant;
- (b) How the State or subgrantee uses the funds;
- (c) The total cost of the project;
- (d) The share of that cost provided from other sources; and
- (e) Other records to facilitate an effective audit.

(Approved by the Office of Management and Budget under control number 1880-0513)

(Authority: 20 U.S.C. 1232f)

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 53 FR 49143, Dec. 6, 1988]

§ 76.731 Records related to compliance.

A State and a subgrantee shall keep records to show its compliance with program requirements.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

PRIVACY

§ 76.740 Protection of and access to student records; student rights in research, experimental programs, and testing.

(a) Most records on present or past students are subject to the requirements of section 438 of GEPA and its implementing regulations under 34 CFR part 99. (Section 438 is the Family Educational Rights and Privacy Act of 1974.)

(b) Under most programs administered by the Secretary, research, experimentation, and testing are subject to the requirements of section 439 of

GEPA and its implementing regulations at 34 CFR part 98.

(Authority: 20 U.S.C. 1221e-3, 1232g, 1232h, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30342, July 8, 1992]

USE OF FUNDS BY STATES AND SUBGRANTEES

§ 76.760 More than one program may assist a single activity.

A State or a subgrantee may use funds under more than one program to support different parts of the same project if the State or subgrantee meets the following conditions:

- (a) The State or subgrantee complies with the requirements of each program with respect to the part of the project assisted with funds under that program.
- (b) The State or subgrantee has an accounting system that permits identification of the costs paid for under each program.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

§ 76.761 Federal funds may pay 100 percent of cost.

A State or a subgrantee may use program funds to pay up to 100 percent of the cost of a project if:

- (a) The State or subgrantee is not required to match the funds; and
- (b) The project can be assisted under the authorizing statute and implementing regulations for the program.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

STATE ADMINISTRATIVE RESPONSIBILITIES

§ 76.770 A State shall have procedures to ensure compliance.

Each State shall have procedures for reviewing and approving applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects, and for performing other administrative responsibilities the State has determined are necessary to ensure compliance

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with applicable statutes and regulations.

(Authority: 20 U.S.C. 1221e-3 and 3474)

[57 FR 30342, July 8, 1992]

§ 76.783 State educational agency action—subgrantee's opportunity for a hearing.

(a) A subgrantee may request a hearing if it alleges that any of the following actions by the State educational agency violated a State or Federal statute or regulation:

(1) Ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds; or

(2) Terminating further assistance for an approved project.

(b) The procedures in § 76.401(d)(2)–(7) apply to any request for a hearing under this section.

NOTE: This section is based on a provision in the General Education Provisions Act (GEPA). Section 427 of the Department of Education Organization Act (DEOA), 20 U.S.C. 3487, provides that except to the extent inconsistent with the DEOA, the GEPA "shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act." Although standardized nomenclature is used in this section to reflect the creation of the Department of Education, there is no intent to extend the coverage of the GEPA beyond that authorized under section 427 or other applicable law.

(Authority: 20 U.S.C. 1231b-2)

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86296, Dec. 30, 1980; 57 FR 30342, July 8, 1992]

Subpart H—How Does a State or Local Educational Agency Allocate Funds to Charter Schools?

SOURCE: 64 FR 71965, Dec. 22, 1999, unless otherwise noted.

GENERAL

§ 76.785 What is the purpose of this subpart?

The regulations in this subpart implement section 10306 of the Elementary and Secondary Education Act of 1965 (ESEA), which requires States to take measures to ensure that each

34 CFR Subtitle A (7–1–07 Edition)

charter school in the State receives the funds for which it is eligible under a covered program during its first year of operation and during subsequent years in which the charter school expands its enrollment.

(Authority: 20 U.S.C. 8065a)

§ 76.786 What entities are governed by this subpart?

The regulations in this subpart apply to—

(a) State educational agencies (SEAs) and local educational agencies (LEAs) that fund charter schools under a covered program, including SEAs and LEAs located in States that do not participate in the Department's Public Charter Schools Program;

(b) State agencies that are not SEAs, if they are responsible for administering a covered program. State agencies that are not SEAs must comply with the provisions in this subpart that are applicable to SEAs; and

(c) Charter schools that are scheduled to open or significantly expand their enrollment during the academic year and wish to participate in a covered program.

(Authority: 20 U.S.C. 8065a)

§ 76.787 What definitions apply to this subpart?

For purposes of this subpart—

Academic year means the regular school year (as defined by State law, policy, or practice) and for which the State allocates funds under a covered program.

Charter school has the same meaning as provided in title X, part C of the ESEA.

Charter school LEA means a charter school that is treated as a local educational agency for purposes of the applicable covered program.

Covered program means an elementary or secondary education program administered by the Department under which the Secretary allocates funds to States on a formula basis, except that the term does not include a program or portion of a program under which an SEA awards subgrants on a discretionary, noncompetitive basis.

Local educational agency has the same meaning for each covered program as